



AGENDA  
LEGAL COMMITTEE MEETING  
Thursday, April 27, 2017 at 4:00PM  
City Hall Conference Room  
425 N. Richardson, Roswell, NM 88201

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

Approval of the minutes from the Legal Committee meeting on March 30, 2017. *p. 3*

REGULAR ITEMS

1. To recommend to full Council that the following RIAC agreements to existing leases be placed on the Consent agenda for approval: *p. 6*
  - (A) Consider approval to authorize American Aggregate, LLC, a New Mexico Limited Liability Corporation, to renew their current lease agreement on an area of land. *p. 8*
  - (B) Consider approval to authorize Michael Joseph Rohrbacher, an individual, to renew his current lease agreement on an area of land and a container. *p. 10*
2. Consider recommendation to full council of Proposed Ordinance 17-15, permitting off-highway vehicles to operate on paved city streets. *p. 12*
3. Consider approval to advertise for a public hearing to be held and voted on at a Regular City Council meeting for May 11, 2017, for Proposed Ordinance 17-13 for addressing allowing flow of water onto public rights-of-way is unlawful. *p. 29*
4. Consider approval to advertise for a public hearing to be held and voted on at a Regular City Council meeting for May 11, 2017, Proposed Ordinance 17-12 to modify Article 23, Section 10 (Lighting). *p. 33*
5. Consider approval to advertise for a public hearing to be held and voted on at a Regular City Council meeting for May 11, 2017, for Proposed Ordinance 17-14 for addressing Multi-Generational Housing. *p. 36*

*-continued on next page-*

## NON ACTION ITEMS

6. Discussion only of possible text amendments addressing the use of public parking spaces. *p. 39*
7. P&Z Update

## PUBLIC PARTICIPATION

### ADJOURN

Notice of this meeting has been given to the public in compliance with Sections 10-15-1 through 10-15-4 NMSA 1978 and Resolution 16-69.

NOTICE OF POTENTIAL QUORUM – A quorum of the City Council may or may not attend, but there will not be debate by the City Council. The Council, acting as attendees to an informational presentation, will not be discussing public business and no action will be taken.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Human Resources at 575-624-6700 at least one week prior to the meeting or as soon as possible. Public documents including the agenda and minutes can be provided in various accessible formats. Please contact the City Clerk at 575-624-6700 if a summary or other type of accessible format is needed.

Printed and posted: **Monday, April 24, 2017**

**Regular Meeting of the Legal Committee  
Held in the Conference Room at City Hall  
March 30, 2017**

Notice of this meeting was given to the public in compliance with Sections 10-15-1 through 10-15-4 NMSA 1978 and Resolution 16-69.

**ROLL CALL**

The meeting convened at 4:00 p.m. with Chairman Perry presiding and Councilors Oropesa and Best being present; Councilor Foster being absent.

Staff present: Bill Morris, Aaron Holloman, Mike Mathews, Thomas Moody and Scott Stark.

Guests present: Larry Connolly, Bell Wolf, Chris Huebner and Caleb Grant

**APPROVAL OF AGENDA**

Councilor Best moved to approve the March 30, 2017 Legal Committee meeting agenda. Councilor Oropesa was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.

**APPROVAL OF MINUTES**

Councilor Best moved to approve the minutes from the February 23, 2017 regular Legal Committee meeting. Councilor Oropesa was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.

**REGULAR ITEMS**

To recommend to full City Council that the following RIAC agreements to existing leases be placed on the consent agenda for approval:

- A. Old Dog Brotherhood, Roswell Chapter, to renew their current lease agreement on Building No. 734. Mr. Stark discussed the lease agreement. Old Dog Brotherhood, Roswell Chapter leases the 2,484 square foot building for the purpose of meetings and vehicle maintenance. They have been customers since April 2011. The term is from May 1, 2017 through April 30, 2018. Councilor Best moved to approve on consent agenda Old Dog Brotherhood, Roswell Chapter to renew their current lease agreement on Building No. 734 in the amount of \$221 monthly; \$2,652 annually and subject to all terms and conditions of the lease. Councilor Oropesa was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.
- B. Cliff Waide, an individual, to renew his current lease agreement on "T" Hangar Building No. 120, Space 4. Mr. Stark discussed the lease agreement. Cliff Waide leases the 1,175 square foot building for the purpose of aircraft storage and maintenance. He has been a customer since January 2013. The term is from May 1, 2017 through April 30, 2018. Councilor Best moved to approve on consent

agenda Cliff Waide to renew his current lease agreement on “T” Hangar Building No. 120, Space 4 in the amount of \$185 monthly; \$2,220 annually and subject to all terms and conditions of the lease. Councilor Oropesa was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.

- C. Aersale, Inc., a Florida Corporation, to amend their current lease agreement on Building No. 115 to allow for rent abatement in accordance with RIAC Abatement Policy. Mr. Stark discussed the rent abatement request. Aersale, Inc. is requesting rent abatement in an amount not to exceed \$6,918.44 for replacement of two overhead doors, two electric operators with photo eyes and control stations on Building No. 115. Chris Huebner from Aersale, Inc. was present to answer any questions committee members might have. Councilor Best moved to approve on consent agenda Aersale, Inc. to amend their current lease agreement on Building No. 115 to allow for rent abatement not to exceed \$6,918.44 and subject to all terms and conditions of the RIAC Abatement Policy. Councilor Oropesa was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.
- D. Sidney Gutierrez Middle School to exercise the first of two five year options for leased property at RIAC. Mr. Stark discussed the lease options. Sidney Gutierrez Middle School is requesting to exercise the first of two five year options on Building No. 524. New rent amount is \$2,907 monthly and \$34,884 annually on the first year of the term. The new lease term is from July 1, 2017 through June 30, 2022. Bell Wolf was present to answer any questions committee members might have. Councilor Best moved to approve on consent agenda Sidney Gutierrez Middle School to exercise the first of two five year options for leased property at RIAC in the amount of \$2,907 monthly; \$34,884 annually and subject to all terms and conditions of the lease. Councilor Oropesa was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.

Proposed Ordinance 17-10 – Permitting Poultry within City Limits, to authorize advertisement of a public hearing on same. Mr. Holloman discussed Proposed Ordinance 17-10. Councilor Perry moved to send to full City Council Proposed Ordinance 17-10 – Permitting Poultry within City Limits and to authorize advertisement of a public hearing with the following changes:

- Section 1.1.A. Definition of acceptable poultry – chickens, turkeys, pheasants, ducks and pigeons whether kept for use or pleasure.
- Section 1.2.A. Remove “or goose”
- Section 1.2.B. Remove “one-half acre” and add “0.4 acres”
- Section 1.2.B. Remove “or goose”
- Section 1.2.C. Remove “or goose”
- Section 1.8. Add “or conditions” after “in numbers”

Councilor Best was the second. A voice vote was unanimous and the motion passed with Councilor Foster being absent.

**NON-ACTION ITEMS**

Discussion of amendment to Roswell City Code to permit off-highway vehicles to operate on paved city streets. Mr. Holloman discussed off-highway vehicle use and presented the state statute and other municipal ordinances. Councilor Grant explained that currently, off-highway vehicles are not permitted to operate on City streets. Several other municipalities have followed the state's lead in permitting these vehicles to be operated subject to certain limitation. Commander Moody expressed concerns from a public safety perspective.

Update on agenda and activity for Planning and Zoning Commission. Bill Morris discussed updates and activity for Planning and Zoning Commission. There were two items on the agenda, a variance for conversion and a request for re-zoning. There are two Text Amendments that staff is processing, one for multi-generational housing and the other for lighting standards.

**PUBLIC PARTICIPATION**

NONE

**ADJOURN**

Meeting adjourned at 4:59 p.m.

**ROSWELL NEW MEXICO**  
**Legal Committee**  
**Thursday, April 27, 2017 at 4:00 p.m.**  
**City Hall Conference Room**  
**425 N. Richardson – Roswell, NM 88201**

**ACTION REQUESTED:**

Consider approval to authorize American Aggregate, LLC, a New Mexico Limited Liability Corporation, to renew their current lease agreement on an area of land.

Consider approval to authorize Michael Joseph Rohrbacher, an individual, to renew his current lease agreement on an area of land and a container.

**BACKGROUND:**

American Aggregate, LLC, leases the area of land for the purpose of operating a concrete batch plant. 270,000 square feet. New rent amount is \$507 monthly; \$6,084 annually. Rent adjustment is 2.63%. American Aggregate, LLC, has been a customer since May 1995.

Michael Joseph Rohrbacher leases an area of land and container for the purpose of storage of display fireworks. 650 square feet. New rent amount is \$121 monthly; \$1,452 annually. Rent adjustment is 2.54%. Michael Joseph Rohrbacher has been a customer since June 2009.

**FINANCIAL CONSIDERATION:**

American Aggregate, LLC, leases the area of land for the purpose of operating a concrete batch plant. 270,000 square feet. New rent amount is \$507 monthly; \$6,084 annually. Rent adjustment is 2.63%. Term: June 1, 2017 through May 31, 2018.

Michael Joseph Rohrbacher leases an area of land and container for the purpose of storage of display fireworks. 650 square feet. New rent amount is \$121 monthly; \$1,452 annually. Rent adjustment is 2.54%. Term: June 1, 2017 through May 31, 2018

**LEGAL REVIEW:** The City Attorney has reviewed the leases.

**BOARD / COMMITTEE ACTION:** The legal committee is scheduled to meet on April 27, 2017.

**STAFF RECOMMENDATION:** Consider approval of leases as presented.

THIS LEASE executed in Roswell, New Mexico on this 11<sup>th</sup> day of May, 2017 by and between the CITY OF ROSWELL, NEW MEXICO, a municipal corporation, hereinafter "Landlord", and AMERICAN AGGREGATE, LLC, a New Mexico Limited Liability Company, hereinafter "Tenant".

WHEREAS Landlord has agreed to lease to Tenant the real property described below, together with the improvements thereon, in Chaves County New Mexico, and Tenant has agreed to lease said real property and improvements from Landlord;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. GRANTING CLAUSE AND PREMISES. For the term, at the rent and otherwise upon the terms, provisions and conditions contained herein, Landlord hereby lets and leases unto Tenant the surface only to the following real property, together with all improvements located thereon:

An area of land measuring 600' X 450' or 270,000 square feet, more or less, located at the Roswell International Air Center, identified on a plat attached hereto and made a part hereof, identified and listed as Exhibit "A" (Premises).

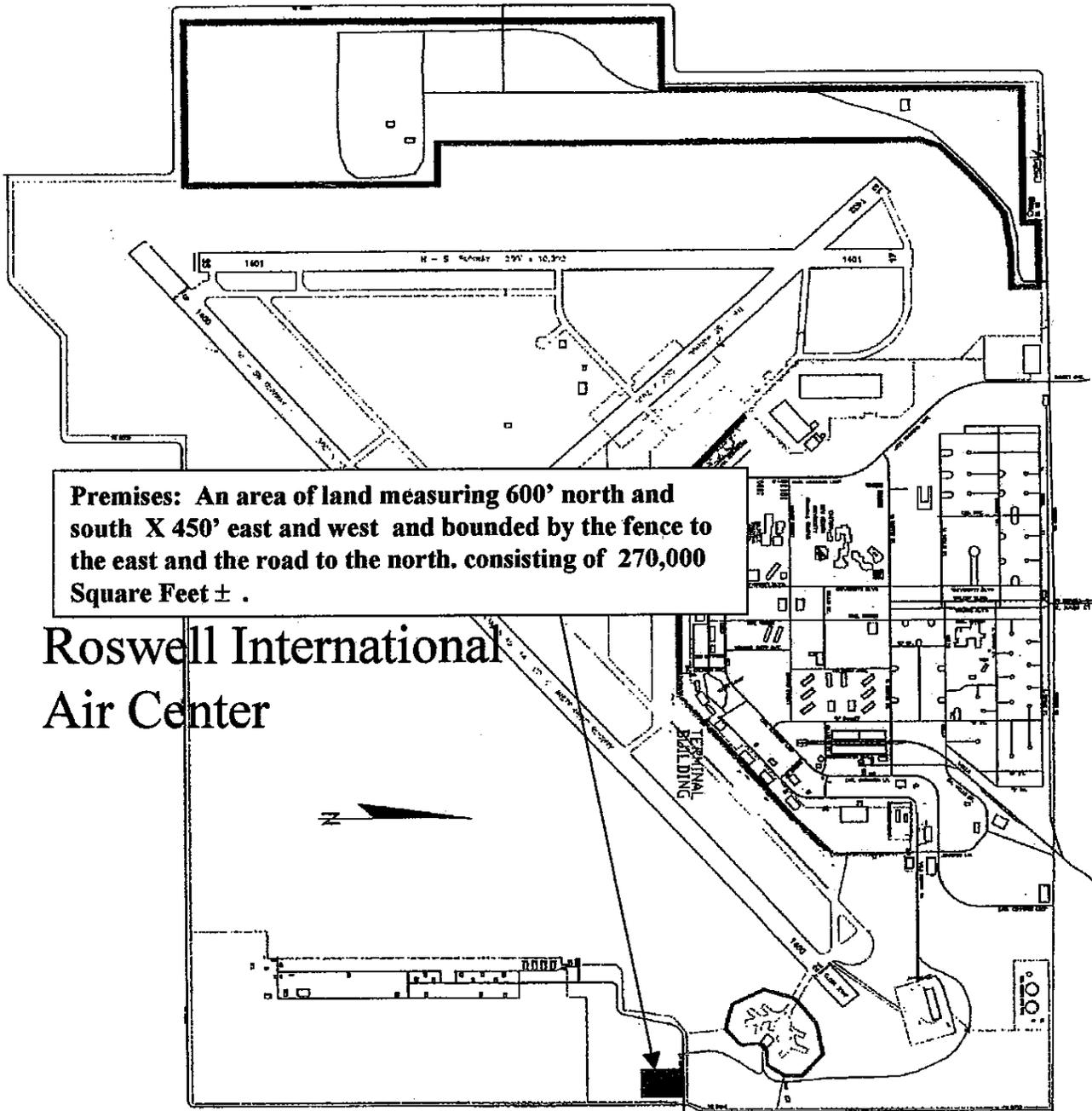
2. TERM. The Lease term is for one (1) year, commencing on June 1, 2017 and ending May 31, 2018 unless sooner terminated by provision hereof.

3. RENT. Tenant agrees to pay to Landlord as rent the sum of Six Thousand, Eighty Four Dollars and No Cents (\$6,084.00), payable in 12 monthly installments of \$507.00. Rent and other fees are due on the first day of each month. If Tenant fails to pay all rent and other fees due for any month by the tenth calendar day of the month that said rent and fees are due, Tenant shall pay to Landlord an additional 2% finance charge, as a penalty, each month until the full amount of that month's rent is paid. This penalty shall be immediately payable without limiting Landlord in the exercise of any other right or remedy to which it may be entitled by reason of Tenant's failure to pay rent when due. All rent shall be paid to Landlord without abatement, reduction or set off of any kind except as herein specifically provided.

4. SECURITY DEPOSIT. Tenant has paid \$894.00 in advance as security for Tenant's full and faithful performance of all terms of this lease. This amount shall be used by Landlord at the termination of this Lease Agreement toward a. payment for rent or penalties due Landlord, b. reimbursement of the costs of cleaning and repairing damages (beyond normal wear and tear) to the Premises and c. the cost of removal of any hazardous material not properly disposed of by Tenant. Landlord shall be the sole and reasonable judge of all cleaning and repairs required for the Premises and the amounts needed for these purposes. Upon termination or expiration of this Lease the security deposit shall first be applied to necessary cleaning and removal, repairs and the remaining balance, if any, may then be applied to rentals and penalties then owing to Landlord. Any refund of the security deposit due Tenant will be delivered or mailed in accordance with Paragraph 26 of this Agreement within 60 days after the termination of this Lease Agreement.

5. CONDITION OF PREMISES. Tenant has inspected Premises and accepts the Premises in its present condition "as is". Tenant acknowledges that any requirements for accessibility and/or public accommodation(s) are Tenant's responsibility. Tenant agrees that the Premises is in good repair and condition except as noted herein. Tenant agrees that, at the expiration of the term hereof, it shall yield up and deliver the Premises to

# EXHIBIT "A"



# EXHIBIT "A"

THIS LEASE executed in Roswell, New Mexico on this 11<sup>th</sup> day of May, 2017 by and between the CITY OF ROSWELL, NEW MEXICO, a municipal corporation, hereinafter designated "Landlord", and MICHAEL JOSEPH ROHRBACHER, an individual, hereinafter designated as "Tenant".

WHEREAS Landlord has agreed to lease to Tenant the real property described below, together with the improvements thereon, in Chaves County New Mexico, and Tenant has agreed to lease said real property and improvements from Landlord;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. GRANTING CLAUSE AND PREMISES. For the term, at the rent and otherwise upon the terms, provisions and conditions contained herein, Landlord hereby lets and leases unto Tenant the surface only to the following real property, together with all improvements located thereon:

An area of land consisting of 650 square feet, more or less, and a container, located at the Roswell International Air Center, identified on a plat attached hereto and made a part hereof, identified and listed as Exhibit "A" (Premises).

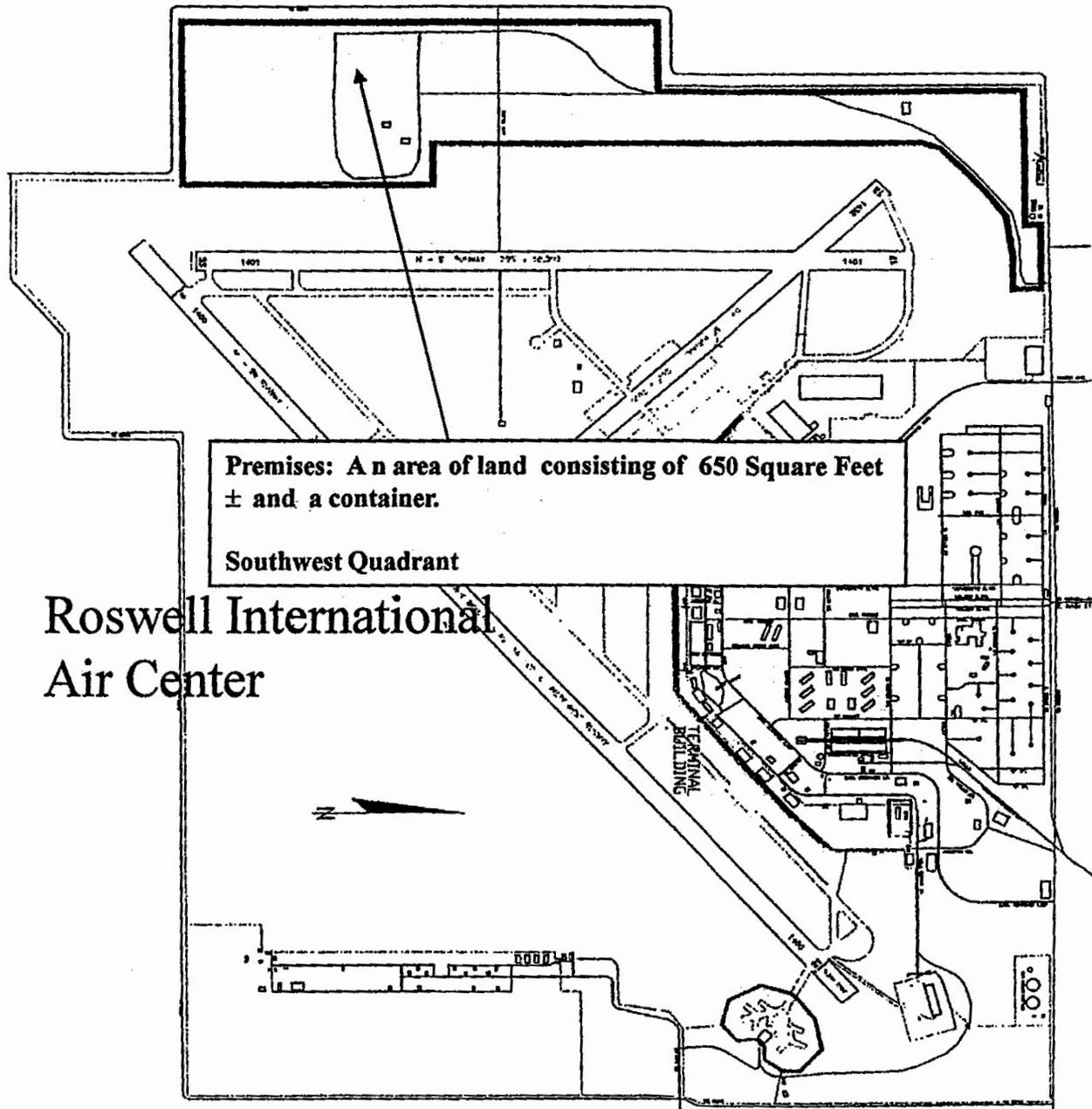
2. TERM. The Lease term is for one (1) year, commencing on June 1, 2017 and ending May 31, 2018 unless sooner terminated by provision hereof.

3. RENT. Tenant agrees to pay to Landlord as rent the sum of One Thousand, Four Hundred Fifty Two Dollars and No Cents (\$1,452.00), payable in 12 monthly installments of \$121.00. Rent and other fees are due on the first day of each month. If Tenant fails to pay all rent and other fees due for any month by the tenth calendar day of the month that said rent and fees are due, Tenant shall pay to Landlord an additional 2% finance charge, as a penalty, each month until the full amount of that month's rent is paid. This penalty shall be immediately payable without limiting Landlord in the exercise of any other right or remedy to which it may be entitled by reason of Tenant's failure to pay rent when due. All rent shall be paid to Landlord without abatement, reduction or set off of any kind except as herein specifically provided.

4. SECURITY DEPOSIT. Tenant has paid \$90.00 in advance as security for Tenant's full and faithful performance of all terms of this lease. This amount shall be used by Landlord at the termination of this Lease Agreement toward a. payment for rent or penalties due Landlord, b. reimbursement of the costs of cleaning and repairing damages (beyond normal wear and tear) to the Premises and c. the cost of removal of any hazardous material not properly disposed of by Tenant. Landlord shall be the sole and reasonable judge of all cleaning and repairs required for the Premises and the amounts needed for these purposes. Upon termination or expiration of this Lease the security deposit shall first be applied to necessary cleaning and removal, repairs and the remaining balance, if any, may then be applied to rentals and penalties then owing to Landlord. Any refund of the security deposit due Tenant will be delivered or mailed in accordance with Paragraph 26 of this Agreement within 60 days after the termination of this Lease Agreement.

5. CONDITION OF PREMISES. Tenant has inspected Premises and accepts the Premises in its present condition "as is". Tenant acknowledges that any requirements for accessibility and/or public accommodation(s) are Tenant's responsibility. Tenant agrees that the Premises is in good repair and condition except as noted herein. Tenant agrees that, at the expiration of the term hereof, it shall yield up and deliver the Premises to

# EXHIBIT "A"



# EXHIBIT "A"

**ROSWELL NEW MEXICO**  
**Legal Committee**  
**Thursday, April 27, 2017 at 4:00 p.m.**  
**City Hall Conference Room**  
**425 N. Richardson – Roswell, NM 88201**

**ACTION REQUESTED:** Consider recommendation to full council of revised Proposed Ordinance 17-15, permitting off-highway vehicles to operate on paved city streets.

**BACKGROUND:** Currently, off-highway vehicles are not permitted to operate on City streets. By State Statute, municipalities may permit off-highway vehicle use on paved streets owned by the City. Several other municipalities have followed the state’s lead in permitting these vehicles to be operated on municipal roadways subject to certain limitations.

**FINANCIAL CONSIDERATION:** Not applicable at this time.

**LEGAL REVIEW:** Not applicable.

**BOARD and/or  
COMMITTEE ACTION:** Not applicable.

**STAFF  
RECOMMENDATION:** Consider recommendation to full council of revised Proposed Ordinance 17-15, permitting off-highway vehicles to operate on paved city streets.

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- Attachment 1: Proposed Ord. 17- 15
  - Attachment 2: Senate Bill 51
  - Attachment 3: NMSA 1978, § 66-3-1011
  - Attachment 4: Farmington City Code Secs. 25-3-136 to -140

**PROPOSED ORDINANCE NO. 17-15**

**AN ORDINANCE AMENDING CHAPTER 25 OF THE ROSWELL CITY CODE TO ADD A SECTION REGULATING THE USE OF OFF-HIGHWAY VEHICLES ON PAVED STREETS OWNED BY THE CITY**

WHEREAS, the New Mexico Legislature has passed the Off-Highway Motor Vehicle Act (“Act”) NMSA 1978, §§ 66-3-1001 to -1016, permitting the operation of off-highway motor vehicles on streets, allowing a municipality, by ordinance or resolution, to authorize off-highway motor vehicles to be operated on a paved street owned or controlled by the City and permitting the City to legislate the use of off- highway motor vehicles in a way that fits with the community; and

WHEREAS, authorizing recreational off-highway vehicles to be operated on certain paved streets owned or controlled by the City will increase access to, and participation in, recreational opportunities; and

WHEREAS, the City desires to authorize recreational off-highway vehicles to be operated on a paved street or highway owned or controlled by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL AS THE GOVERNING BODY OF THE CITY OF ROSWELL, NEW MEXICO, that:

SECTION 1. Chapter 25 of the Roswell City Code shall be amended to include new Secs. 24-11 to 24-15 to read as follows:

Sec. 24-11. Definitions.

As used in this division, the following definitions shall apply:

“Off-highway motor vehicle” means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

- (1) “all-terrain vehicle”, which means a motor vehicle fifty inches or less in width, having an unladen dry weight of one thousand pounds or less, traveling on three or more low-pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control;
- (2) “off-highway motorcycle”, which means a motor vehicle traveling on not more than two tires and having a seat designed to be straddled by the operator and that has handlebar-type steering control;
- (3) “snowmobile”, which means a motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires;
- (4) “recreational off-highway vehicle”, which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
  - (a) a steering wheel for steering control;
  - (b) non-straddle seating;
  - (c) maximum speed capability greater than thirty-five miles per hour;
  - (d) gross vehicle weight rating no greater than one thousand seven hundred fifty pounds;
  - (e) less than eighty inches in overall width, exclusive of accessories;

- (f) engine displacement of less than one thousand cubic centimeters; and
  - (g) identification by means of a seventeen-character vehicle identification number; or
- (5) by rule of the state department of game and fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

Sec. 24-12. Operation on streets or highways -- prohibited areas.

(A) A person shall not operate an off-highway motor vehicle on any:

- (1) limited access highway or freeway at any time;
- (2) paved street or highway except as provided in Subsection B or C of this section;
- (3) walking trails; or
- (4) city parks.

(B) Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.

(C) A recreational off-highway vehicle may be operated on a paved street owned and controlled by the city if:

- (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, NMSA 1978, §§ 66-3-1001 to -1021;
- (2) the vehicle has brakes, mirrors, and mufflers;
- (3) the operator has a valid driver's licenses or permits as required under the Motor Vehicle Code and off-highway motor vehicle safety permits as required under the Off-Highway Motor Vehicle Act;
- (4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act, NMSA 1978, §§ 66-5-201 to -248;
- (5) a person shall not operate an off-highway motor vehicle or ride upon an off- highway motor vehicle without wearing eye protection that complies with the Off-Highway Motor Vehicle Act; and
- (6) if the operator is under eighteen years of age, the operator is wearing a safety helmt that complies with the Off-Highway Motor Vehicle Act.

Sec. 24-13. Speed limit.

The speed limit for recreational off-highway vehicles operated within the city shall be 45 miles per hour or the posted speed limit, whichever is less. A recreational off-highway vehicle traveling on a paved street shall travel at a speed that complies with the Off-Highway Motor Vehicle Act.

Sec. 24-14. Passengers.

A person operating a recreational off-highway vehicle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a recreational off-highway vehicle unless such vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat, if designed for two persons, or

upon another seat firmly attached to the recreational off-highway vehicle at the rear of the operator.

Sec. 24-15. Obedience to traffic laws required.

Any person operating an off-highway motor vehicle shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1978 [except 66-7-102.1 NMSA 1978].

SECTION 2. All ordinances or parts of ordinances in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

SECTION 3. If any section, paragraph, clause or provisions of this ordinance for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

SECTION 4. This ordinance shall be effective after five days following its publication as required by law.

PASSED, ADOPTED, SIGNED and APPROVED the \_\_\_ day of June, 2017.

CITY SEAL

\_\_\_\_\_  
Dennis Kintigh, Mayor

ATTEST: \_\_\_\_\_  
Sharon Coll, City Clerk

Underscoring indicates addition to existing Code section.

~~Strike through~~ indicates delete of an existing Code section.

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AN ACT

RELATING TO OFF-HIGHWAY MOTOR VEHICLES; AMENDING SECTIONS OF  
THE MOTOR VEHICLE CODE AND THE OFF-HIGHWAY MOTOR VEHICLE ACT;  
PROVIDING FOR A SPECIAL PAVED ROAD USE VEHICLE PLATE FOR  
OFF-HIGHWAY MOTOR VEHICLES; AMENDING THE OFF-HIGHWAY MOTOR  
VEHICLE ACT TO SPECIFY AGE-APPROPRIATE OPERATING LICENSES,  
PERMITS AND SAFETY GEAR FOR PAVED ROAD USE; MAKING AN  
APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 66-1-4.19 NMSA 1978 (being Laws  
1990, Chapter 120, Section 20, as amended) is amended to  
read:

"66-1-4.19. DEFINITIONS.--As used in the Motor Vehicle  
Code:

A. "validating sticker" means the tab or sticker  
issued by the division to signify, upon a registration plate,  
renewed registration;

B. "vehicle" means every device in, upon or by  
which any person or property is or may be transported or  
drawn upon a highway, including any frame, chassis, body or  
unitized frame and body of any vehicle or motor vehicle,  
except devices moved exclusively by human power or used  
exclusively upon stationary rails or tracks;

C. "vehicle-business number" means the distinctive

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1 registration number given by the division to any  
2 manufacturer, auto recycler or dealer; and

3 D. "vehicle plate" means a plate, marker, sticker  
4 or tag similar to a registration plate, but that is issued by  
5 the department for vehicles that are exempted from  
6 registration under the Motor Vehicle Code."

7 SECTION 2. A new section of the Motor Vehicle Code is  
8 enacted to read:

9 "OFF-HIGHWAY MOTOR VEHICLE PAVED ROAD USE VEHICLE  
10 PLATE.--

11 A. The department shall issue a standardized  
12 special off-highway motor vehicle paved road use vehicle  
13 plate with a logo specified in Section 66-3-424 NMSA 1978  
14 indicating that the recipient intends to operate an  
15 off-highway motor vehicle on paved streets or highways in  
16 accordance with the provisions of the Off-Highway Motor  
17 Vehicle Act.

18 B. For a fee of seven dollars (\$7.00), an  
19 off-highway motor vehicle owner who wishes to indicate an  
20 intent to operate an off-highway motor vehicle on paved  
21 streets or highways in accordance with the provisions of the  
22 Off-Highway Motor Vehicle Act may apply for the issuance of a  
23 special vehicle plate as provided in Subsection A of this  
24 section. No two owners shall be issued identically lettered  
25 or numbered vehicle plates.

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1 C. The revenue from the special off-highway motor  
2 vehicle paved road use vehicle plate fee imposed by  
3 Subsection B of this section shall be retained by the  
4 department and is appropriated to the department for the  
5 manufacture and issuance of the vehicle plates."

6 SECTION 3. Section 66-3-1010.3 NMSA 1978 (being Laws  
7 2005, Chapter 325, Section 11, as amended) is amended to  
8 read:

9 "66-3-1010.3. OPERATION AND EQUIPMENT--SAFETY  
10 REQUIREMENTS.--

11 A. A person shall not operate an off-highway motor  
12 vehicle:

13 (1) in a careless, reckless or negligent  
14 manner so as to endanger the person or property of another;

15 (2) while under the influence of  
16 intoxicating liquor or drugs as provided by Section 66-8-102  
17 NMSA 1978;

18 (3) while in pursuit of and with intent to  
19 hunt or take a species of animal or bird protected by law  
20 unless otherwise authorized by the state game commission;

21 (4) in pursuit of or harassment of livestock  
22 in any manner that negatively affects the livestock's  
23 condition;

24 (5) on or within an earthen tank or other  
25 structure meant to water livestock or wildlife, unless the

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1 off-highway motor vehicle is on a route designated by the  
2 landowner or land management agency as an off-highway motor  
3 vehicle route;

4 (6) in a manner that has a direct negative  
5 effect on or interferes with persons engaged in agricultural  
6 practices;

7 (7) in excess of ten miles per hour within  
8 two hundred feet of a business, animal shelter, horseback  
9 rider, bicyclist, pedestrian, livestock or occupied dwelling,  
10 unless the person operates the vehicle on a closed course or  
11 track or a public roadway;

12 (8) unless in possession of the person's  
13 registration certificate or nonresident permit;

14 (9) unless the vehicle is equipped with a  
15 spark arrester approved by the United States forest service;  
16 provided that a snowmobile is exempt from this provision;

17 (10) when conditions such as darkness limit  
18 visibility to five hundred feet or less, unless the vehicle  
19 is equipped with:

20 (a) one or more headlights of  
21 sufficient candlepower to light objects at a distance of one  
22 hundred fifty feet; and

23 (b) at least one taillight of  
24 sufficient intensity to exhibit a red or amber light at a  
25 distance of two hundred feet under normal atmospheric

1 conditions;

2 (11) that produces noise that exceeds  
3 ninety-six decibels when measured using test procedures  
4 established by the society of automotive engineers pursuant  
5 to standard J-1287; or

6 (12) where off-highway motor vehicle traffic  
7 is prohibited under local, state or federal rules or  
8 regulations.

9 B. A person under the age of eighteen shall not  
10 operate an off-highway motor vehicle:

11 (1) or ride upon an off-highway motor  
12 vehicle without wearing eye protection and a safety helmet  
13 that is securely fastened in a normal manner as headgear and  
14 that meets the standards established by the department;

15 (2) without an off-highway motor vehicle  
16 safety permit; or

17 (3) while carrying a passenger.

18 C. A person under the age of eighteen but at least  
19 ten years of age shall not operate an off-highway motor  
20 vehicle unless the person is visually supervised at all times  
21 by a parent, legal guardian or a person over the age of  
22 eighteen who has a valid driver's license. This subsection  
23 shall not apply to a person who is at least:

24 (1) thirteen years of age and has a valid  
25 motorcycle license and off-highway motor vehicle safety

1 permit; or

2 (2) fifteen years of age and has a valid  
3 driver's license, instructional permit or provisional license  
4 and off-highway motor vehicle safety permit.

5 D. A person under the age of ten shall not operate  
6 an off-highway motor vehicle unless:

7 (1) the all-terrain vehicle or recreational  
8 off-highway vehicle is an age-appropriate size-fit vehicle  
9 established by rule of the department; and

10 (2) the person is visually supervised at all  
11 times by a parent, legal guardian or instructor of a safety  
12 training course certified by the department.

13 E. An off-highway motor vehicle shall not be sold  
14 or offered for sale if the vehicle produces noise that  
15 exceeds ninety-six decibels when measured using test  
16 procedures established by the society of automotive engineers  
17 pursuant to standard J-1287. This subsection shall not apply  
18 to an off-highway motor vehicle that is sold or offered for  
19 sale only for organized competition."

20 SECTION 4. Section 66-3-1011 NMSA 1978 (being Laws  
21 1975, Chapter 240, Section 11, as amended) is amended to  
22 read:

23 "66-3-1011. OPERATION ON STREETS OR HIGHWAYS--  
24 PROHIBITED AREAS.--

25 A. A person shall not operate an off-highway motor SB 51  
Page 6

1 vehicle on any:

2 (1) limited access highway or freeway at any  
3 time; or

4 (2) paved street or highway except as  
5 provided in Subsection B, C, D or E of this section.

6 B. Off-highway motor vehicles may cross streets or  
7 highways, except limited access highways or freeways, if the  
8 crossings are made after coming to a complete stop prior to  
9 entering the roadway. Off-highway motor vehicles shall yield  
10 the right of way to oncoming traffic and shall begin a  
11 crossing only when it can be executed safely and then cross  
12 in the most direct manner as close to a perpendicular angle  
13 as possible.

14 C. If authorized by ordinance or resolution of a  
15 local authority or the state transportation commission, a  
16 recreational off-highway vehicle or an all-terrain vehicle  
17 may be operated on a paved street or highway owned and  
18 controlled by the authorizing entity if:

19 (1) the vehicle has one or more headlights  
20 and one or more taillights that comply with the Off-Highway  
21 Motor Vehicle Act;

22 (2) the vehicle has brakes, mirrors and  
23 mufflers;

24 (3) the operator has valid driver's licenses  
25 or permits as required under the Motor Vehicle Code and

1 off-highway motor vehicle safety permits as required under  
2 the Off-Highway Motor Vehicle Act;

3 (4) the operator is insured in compliance  
4 with the provisions of the Mandatory Financial Responsibility  
5 Act;

6 (5) the operator of the vehicle is using eye  
7 protection that complies with the Off-Highway Motor Vehicle  
8 Act; and

9 (6) if the operator is under eighteen years  
10 of age, the operator is wearing a safety helmet that complies  
11 with the Off-Highway Motor Vehicle Act.

12 D. Except for sections of the Motor Vehicle Code  
13 that are in conflict with the licensing and equipment  
14 requirements of the Off-Highway Motor Vehicle Act, any  
15 operator using an off-highway motor vehicle on a paved street  
16 or highway shall be subject to the requirements and penalties  
17 for operators of moving and parked vehicles under the Motor  
18 Vehicle Code.

19 E. By ordinance or resolution, a local authority  
20 or state transportation commission may establish separate  
21 speed limits and operating restrictions for off-highway  
22 vehicles where they are authorized to operate on paved  
23 streets or highways pursuant to Subsection C of this section.

24 F. A person shall not operate an off-highway  
25 motor vehicle on state game commission-owned, -controlled

1 or -administered land except as specifically allowed pursuant  
2 to Chapter 17, Article 6 NMSA 1978.

3 G. A person shall not operate an off-highway motor  
4 vehicle on land owned, controlled or administered by the  
5 state parks division of the energy, minerals and natural  
6 resources department, pursuant to Chapter 16, Article 2  
7 NMSA 1978, except in areas designated by and permitted by  
8 rules adopted by the secretary of energy, minerals and  
9 natural resources.

10 H. Unless authorized, a person shall not:

11 (1) remove, deface or destroy any official  
12 sign installed by a state, federal, local or private land  
13 management agency; or

14 (2) install any off-highway motor  
15 vehicle-related sign."

16 SECTION 5. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2017. \_\_\_\_\_

N. M. S. A. 1978, § 66-3-1011

§ 66-3-1011. Operation on streets or highways; prohibited areas

Effective: May 18, 2016

Currentness

A. A person shall not operate an off-highway motor vehicle on any:

- (1) limited access highway or freeway at any time; or
- (2) paved street or highway except as provided in Subsection B, C or D of this section.

B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.

C. If authorized by ordinance or resolution of a local authority or the state transportation commission, a recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the authorizing entity if:

- (1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;
- (2) the vehicle has brakes, mirrors and mufflers;
- (3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;

(4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act; and

(5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.

D. By ordinance or resolution, a local authority or state transportation commission may establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways pursuant to Subsection C of this section.

E. A person shall not operate an off-highway motor vehicle on state game commission-owned, -controlled or -administered land except as specifically allowed pursuant to Chapter 17, Article 6 NMSA 1978.

F. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to Chapter 16, Article 2 NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.

G. Unless authorized, a person shall not:

(1) remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or

(2) install any off-highway motor vehicle-related sign.

#### **Credits**

L. 1975, Ch. 240, § 11; L. 1978, Ch. 35, § 207; L. 1985, Ch. 189, § 11; L. 2005, Ch. 325, § 14, eff. Jan. 1, 2006; L. 2009, Ch. 53, § 7, eff. April 1, 2009; L. 2016, Ch. 91, § 1, eff. May 18, 2016.

**Formerly** 1953 Comp., § 64-42-11; 1953 Comp., § 64-3-1011.

NMSA 1978, § 66-3-1011, NM ST § 66-3-1011

Current including emergency Ch. 3, of the 1st Regular Session of the 53rd Legislature (2017)

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**CITY OF FARMINGTON CODE OF ORDINANCES**

DIVISION 5. - OFF-HIGHWAY MOTOR VEHICLES

Sec. 25-3-136. - Definitions.

As used in this division, the following definitions shall apply:

*Off-highway motor vehicle* means a motor vehicle designed by the manufacturer for operation exclusively off the highway or road and includes:

- (1) "Recreational off-highway vehicle", which means a motor vehicle designed for travel on four or more non-highway tires, for recreational use by one or more persons, and having:
  - a. A steering wheel for steering control;
  - b. Non-straddle seating;
  - c. Maximum speed capability greater than 35 miles per hour;
  - d. Gross vehicle weight rating no greater than 1,750 pounds;
  - e. Less than 80 inches in overall width, exclusive of accessories;
  - f. Engine displacement of less than 1,000 cubic centimeters; and
  - g. Identification by means of a 17-character vehicle identification number; or
- (2) By rule of the state department of game and fish, any other vehicles that may enter the market that fit the general profile of vehicles operated off the highway for recreational purposes.

(Ord. No. [2016-1286](#), § 1, 5-10-16)

Sec. 25-3-137. - Operation on streets or highways — prohibited areas.

- (a) A person shall not operate an off-highway motor vehicle on any:
  - (1) Limited access highway or freeway at any time;
  - (2) Paved street or highway except as provided in Subsection B or C of this section;
  - (3) Walking trails; or
  - (4) City parks.
- (b) Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.
- (c) A recreational off-highway vehicle may be operated on a paved street owned and controlled by the city if:
  - (1) The vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act, Sec. 66-3-1001 through 66-3-1021, NMSA 1978;

- (2) The vehicle has brakes, side mirrors on the right and left side of the driver, turn signals, horn, speedometer illuminated for nighttime operation and mufflers;
- (3) The operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;
- (4) The operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act, Sec. 66-5-201 through 66-5-248, NMSA 1978; and
- (5) A person shall not operate an off-highway motor vehicle or ride upon an off-highway motor vehicle without wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.

(Ord. No. [2016-1286](#), § 1, 5-10-16)

Sec. 25-3-138. - Speed limit.

The speed limit for recreational off-highway vehicles operated within the city shall be 45 miles per hour or the posted speed limit, whichever is less. A recreational off-highway vehicle traveling on a paved street shall travel at a speed that complies with the Off-Highway Motor Vehicle Act.

(Ord. No. [2016-1286](#), § 1, 5-10-16)

Sec. 25-3-139. - Passengers.

A person operating a recreational off-highway vehicle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a recreational off-highway vehicle unless such vehicle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat, if designed for two persons, or upon another seat firmly attached to the recreational off-highway vehicle at the rear of the operator.

(Ord. No. [2016-1286](#), § 1, 5-10-16)

Sec. 25-3-140. - Obedience to traffic laws required.

Any person operating an off-highway motor vehicle shall obey all traffic laws, rules and regulations and shall be subject to the provisions of Articles 1 through 8 of Chapter 66 NMSA 1978 [except 66-7-102.1 NMSA 1978].

(Ord. No. [2016-1286](#), § 1, 5-10-16)

**ROSWELL NEW MEXICO**  
Legal Committee  
Thursday, April 27, 2017 at 4:00 p.m.  
City Hall Conference Room  
425 N. Richardson – Roswell, NM 88201

**ACTION REQUESTED:** Proposed Ordinance 17-13: An ordinance of the City of Roswell revising Article 26, Section 25 (allowing flow of water onto public rights-of-way is unlawful), and providing for severability and an effective date.

**BACKGROUND:** Article 6, Section 25 of the City Code of Ordinances currently addresses the wasting of water when it is being allowed to flow into the streets, by staff determined that these provisions needed to be stated more clearly..

**FINANCIAL CONSIDERATION:** There are no financial considerations associated with this item.

**LEGAL REVIEW:** The City's Contract Attorney has reviewed this Ordinance.

**BOARD AND/or COMMITTEE ACTION:** The Legal Committee recommended approval (X-0) of Proposed Ordinance No. 17-14 at their meeting on April 27 4, 2017.

**STAFF RECOMMENDATION:** Consider approval to advertise for a public hearing to be held and voted on at a Regular City Council meeting for May 11, 2017, for Proposed Ordinance 17-13 for addressing allowing flow of water onto public rights-of-way is unlawful.

**ORDINANCE NO. 17-13**

**AN ORDINANCE OF THE CITY OF ROSWELL REVISING ARTICLE 26, SECTION 25 (ALLOWING FLOW OF WATER ONTO PUBLIC RIGHTS-OF-WAY IS UNLAWFUL), AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, The City of Roswell, New Mexico has determined that water conservation is an important policy for the City of Roswell to pursue; and,

**WHEREAS**, the City of Roswell City Council has determined that it is necessary to clearly state the City's intent to pursue legal remedies if property owners will not comply with water conservation measures.

**NOW THEREFORE**, be it ordained by the governing body of City of Roswell, State of New Mexico:

**Section 1. MODIFICATIONS.**

Section 26-25 shall be modified as follows:

**Sec. 26-25. - Allowing flow of water onto public rights-of-way is unlawful.**

- (a) Water conservation. The wasting of city water is contrary to the public health, safety and welfare of the citizens of the City of Roswell and is therefore declared to be a public nuisance. The City of Roswell ~~may will~~ pursue compliance of water conservation measures by citing noncompliant property owners into Municipal Court as allowed under Section 15-12 (General penalty; continuing violations) of the Roswell Code of Ordinances ~~all remedies available at law for the abatement of such a nuisance~~. Further, the wasting of city water is prohibited, and any water customer of the City of Roswell who permits city water to be wasted shall be subject to the penalties set forth herein.

For the purposes of this article, "city water" is any water that is treated and distributed by the City of Roswell, and includes water that has passed through a customer's water meter. "City water" does not include precipitation that is collected, or water pumped from a private well.

For the purposes of this article, the wasting of city water includes:

- (1) Permitting city water unnecessarily and excessively to flow onto any highway, street, gutter, or alley.
- (2) The washing of vehicles with city water by the use of a free-flowing water hose that is not equipped with a positive shut-off nozzle. Fund-raising car washes are allowed, but the requirement of a shut-off

nozzle applies to such activities. Mechanical commercial car washes and coin-operated car washes are permitted.

- (3) Using any lawn sprinkler or landscape irrigation system in such a way that city water is regularly permitted to flow, runoff, or spray onto any public highway, street, gutter, or alley.
  - (4) Permitting any substantial plumbing leak to exist for more than ten days after discovering same.
- (b) Water saving devices. In any building project, residential, commercial or otherwise, for which a building permit is issued on or after the effective date of the ordinance from which this section derives, the shower heads shall meet the following specifications:
- (1) Shower heads shall be equipped with flow restrictors limiting the flow in the shower head to 2.8 gallons per minute.
  - (2) No building project for which a building permit is issued on or after the effective date of this ordinance from which this section derives shall receive final approval by the building inspector nor shall a certificate of occupancy for the building project be issued unless the shower heads meet the requirements described above.
  - (3) Any showerhead that is replaced within the city shall be replaced by a showerhead that meets the requirement of subsection (1).
  - (4) Any person installing shower heads in violation of this subsection shall be subject to the penalties specified herein.

In the development of new residential or commercial property, the city strongly encourages the use of low-water-use landscaping and efficient irrigation systems. In deliberating on applications for land development, the city may take into consideration whether the landowner will install low-water-use landscaping and efficient irrigation systems, particularly in sloped areas, narrow strips of land or common areas.

## **Section 2. SEVERABILITY.**

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

## **Section 3. EFFECTIVE DATE.**

This ordinance shall be effective after five (5) days following its publication as required by State law.

**PASSED, ADOPTED, SIGNED and APPROVED the XXth day of XXXXXXX, 2017.**

CITY SEAL

ATTEST:

\_\_\_\_\_  
**Dennis Kintigh, Mayor**

\_\_\_\_\_  
**Sharon Coll, City Clerk**



**AGENDA**  
**ROSWELL LEGAL COMMITTEE**  
Thursday, April 27, 2017 at 4:00 p.m.  
Conference Room at Roswell City Hall  
425 N. Richardson, Roswell, N.M. 88201

**ACTION REQUESTED:**

Discussion and possible recommendation of approval of Proposed Ordinance 17-12 to modify Article 23, Section 10 (Lighting).

**BACKGROUND:**

The following text amendments are intended to address LED lighting that is being installed in parking lot situations. These lights are much brighter than conventional lighting which can cause issues with adjacent properties.

**FINANCIAL CONSIDERATION:**

There are no additional costs associated with this request.

**LEGAL REVIEW:**

N/A.

**BOARD OR COMMITTEE ACTION:**

Planning & Zoning Commission heard this item at the March 28, 2017 meeting and voted 7-0 to recommend approval.

**STAFF RECOMMENDATION:**

Discussion and possible recommendation of approval of Proposed Ordinance 17-12 to modify Article 23, Section 10 (Lighting).

## ORDINANCE NO. 17-12

### AN ORDINANCE OF THE CITY OF ROSWELL REVISING ARTICLE 23, SECTION 10 (LIGHTING), AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

**WHEREAS**, The City of Roswell, New Mexico has regulations concerning the provision of street and parking lot lighting; and,

**WHEREAS**, the City of Roswell City Council has determined that new regulations are appropriate to address new technologies which create adverse affects on adjacent properties.

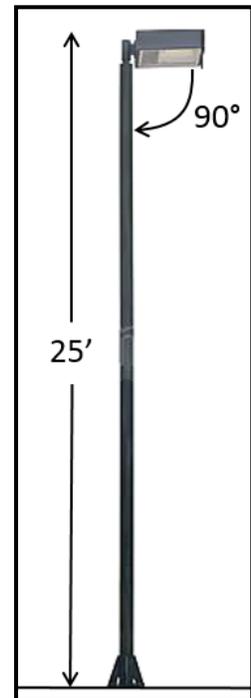
**NOW THEREFORE**, be it ordained by the governing body of City of Roswell, State of New Mexico:

#### Section 1. Modifications

### ARTICLE 23: BUILDING AND PERFORMANCE STANDARDS

#### Section 10. Lighting

- A. All lighting, glare, and/or general illumination shall not be cast upon **any other** properties **that are adjacent to the site** from which the lighting, glare, and/or general illumination originates.
- B. No lighting, glare, and/or general illumination which flashes, revolves, or otherwise resembles a traffic control signal or in any way creates a hazard for passing traffic shall be permitted.
- C. All exterior lighting shall conform to the New Mexico Night Skies Act.
- D. **All signage and street graphics may be backlit or down-lit, but shall not be up-lit.**
- E. **LED lighting: Specific criteria for LED lighting shall be as follows (See Figure 23-10-1):**
  1. **All light poles shall not exceed twenty-five (25) feet in height with the exception of street lighting in public rights-of-way (ROW) as approved by the City Engineer.**
  2. **Lighting shall not exceed 4,000K CCT (Correlated Color Temperature).**
  3. **Lighting units shall be adjusted to ninety (90) degrees from the light pole and oriented perpendicularly to the ground as shown in Figure 23-10-1.**



**Figure 23-10-1**

**4. Light units shall be shielded to prevent light spilling onto or in the direction of residential areas.**

**Section 2. SEVERABILITY.**

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 3. EFFECTIVE DATE.**

This ordinance shall be effective after five (5) days following its publication as required by State law.

**PASSED, ADOPTED, SIGNED and APPROVED the XXth day of XXXXXXX, 2017.**

CITY SEAL

\_\_\_\_\_  
**Dennis Kintigh, Mayor**

ATTEST:

\_\_\_\_\_  
**Sharon Coll, City Clerk**

ROSWELL NEW MEXICO  
Legal Committee  
Thursday, February 23, 2017 at 4:00 p.m.  
City Hall Conference Room  
425 N. Richardson – Roswell, NM 88201

- ACTION REQUESTED:** Proposed Ordinance 17-14: To consider approval to advertise for a public hearing to be held and voted on at a Regular City Council meeting for May 11, 2017, for Proposed Ordinance 17-14 for addressing Multi-Generational Housing.
- BACKGROUND:** Article 3-21-1 (F) NMSA states that local jurisdictions are required to address “Multi-Generational Housing” in their respective land development regulations. This accessory housing is intended to allow a relative to reside onsite but in their own structure. These amendments will provide review criteria that will ensure that multi-generational housing will be used as intended by State Statutes.
- FINANCIAL CONSIDERATION:** There are no financial considerations associated with this item.
- LEGAL REVIEW:** The City’s Contract Attorney has reviewed this Ordinance.
- BOARD AND/or COMMITTEE ACTION:** The Legal Committee recommended approval (X-0) of Proposed Ordinance No. 17-14 at their meeting on May 4, 2017. The Planning & Zoning Commission Committee recommended approval (3-0) of Proposed Ordinance No. 17-14 at their meeting on February 28, 2017.
- STAFF RECOMMENDATION:** Consider approval to advertise for a public hearing to be held and voted on at a Regular City Council meeting for May 11, 2017, for Proposed Ordinance 17-14 for addressing Multi-Generational Housing.

**ORDINANCE NO. 17-14**

**AN ORDINANCE OF THE CITY OF ROSWELL ESTABLISHING CRITERIA FOR PLACEMENT OF MULTI-GENERATIONAL HOUSING, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, The State of New Mexico has determined that local governments need to provide for “Multi-Generational Housing” to allow for family members to be cared for locally; and,

**WHEREAS**, the City of Roswell City Council has determined that this requirement can be taken care of by the following regulations.

**NOW THEREFORE**, be it ordained by the governing body of City of Roswell, State of New Mexico:

**Section 1. Modifications**

**A. Add New Text Article 4 (Definitions), Section 2:**

**Multi-Generational Housing.** An accessory residential unit that is allowed in Residential zones which is no greater than 400 square feet in size and meets the requirements of the International Residential Code and all other requirements of the Zoning Code. This housing may be an unattached, or attached to the primary unit, and separate services may be provided by the City. For the purpose of this definition, "multigenerational" means any number of persons related by blood, common ancestry, marriage, guardianship or adoption.

**B. Add New Text Article 6 (R-S Rural Suburban District), Section 2 (Special Uses)**

**17.** Multi-Generational Housing, subject to administrative renewal every five (5) years demonstrating compliance with the definition of “Multi-Generational Housing”.

**C. Add New Text Article 7 (R-1 Residential District), Section 2 (Special Uses)**

**9.** Multi-Generational Housing, subject to administrative renewal every five (5) years demonstrating compliance with the definition of “Multi-Generational Housing”.

**D. Delete Existing Article 5 (Establishment of Zoning Districts), Section 4 (Conditional Use Permit – Multigenerational)**

Pursuant to NMSA Section 3-21-1 (F), a property owner may apply for a Conditional Use Permit for a second kitchen within a single-family residential home located within a residential zoned district.

No Conditional Use Permit shall be approved until a public hearing has been held by the Planning and Zoning Commission in accordance with this Ordinance.

Conditional Use Permits are not transferable and are bound to the applicant at the residential lot stated on the application.

**Section 2. SEVERABILITY.**

If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 3. EFFECTIVE DATE.**

This ordinance shall be effective after five (5) days following its publication as required by State law.

**PASSED, ADOPTED, SIGNED and APPROVED the XXth day of XXXXXX, 2017.**

CITY SEAL

\_\_\_\_\_  
**Dennis Kintigh, Mayor**

ATTEST:

\_\_\_\_\_  
**Sharon Coll, City Clerk**



**AGENDA**  
**ROSWELL LEGAL COMMITTEE**  
Thursday, April 27, 2017 at 4:00 p.m.  
Conference Room at Roswell City Hall  
425 N. Richardson, Roswell, N.M. 88201

**ACTION REQUESTED:**

Discussion only of possible text amendments addressing the use of public parking spaces.

**BACKGROUND:**

The City of Roswell provides parking spaces for no cost in locations throughout the downtown area. There have been concerns expressed about how these spaces should be used, specifically, concerning, length of time, as well as the placement of unserviceable vehicles.

**FINANCIAL CONSIDERATION:**

There are no additional costs associated with this request.

**LEGAL REVIEW:**

N/A.

**BOARD OR COMMITTEE ACTION:**

Not applicable.

**STAFF RECOMMENDATION:**

Discussion of the issue only